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VOLUME IV.

TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1941 1942

Nos. ~~799-800~~ 4-5

THE UNITED STATES OF AMERICA, PETITIONER

VS.

WILLIAM R. JOHNSON

THE UNITED STATES OF AMERICA, PETITIONER

VS.

**JACK SOMMERS, JAMES A. HARTIGAN, JOHN M.
FLANAGAN, ET AL.**

**ON PETITION FOR WRITS OF CERTIORARI TO THE UNITED
STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH
CIRCUIT**

FILED DECEMBER 12, 1941



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1 In the District Court of the United States of America for
the Northern District of Illinois, Eastern Division

D. C. No. 32168

UNITED STATES OF AMERICA

v.

WILLIAM R. JOHNSON, JACK SOMMERS ET AL.

Petition for amplification of the record

Now comes the United States of America by J. Albert Woll, United States Attorney for the Northern District of Illinois, and respectfully represents unto this Court that the bill of exceptions in this cause was allowed and approved and made a part of the record by this Court on the 21st day of January 1941; that in the bill of exceptions, as so approved, appears in partial narrative form the testimony of the witness Frank J. Clifford;

That it appears that a full determination of the questions arising in this cause may be assisted by the inclusion in the record of the entire testimony of the said witness Frank J. Clifford in question and answer form rather than in the form in which it now appears.

Wherefore, your petitioner prays that this Court enter an order amplifying the record in this cause by certifying, approving, and making a part of the record the entire testimony of the said witness Frank J. Clifford in question and answer form.

J. ALBERT WOLL,

United States Attorney.

2 In the District Court of the United States

[Title omitted.]

Order amplifying record

And now this cause coming on to be heard upon the petition of J. Albert Woll, United States Attorney for the Northern District of Illinois, for the amplification of the record in this cause, and the Court having examined the petition of the United States Attorney and having examined the original court reporter's transcript of the testimony of the witness Frank J. Clifford taken during the trial of this cause, the Court now finds that the transcript of the testimony of the witness Frank J. Clifford in question and answer form is a true and correct trans-

script of the testimony of the said witness Frank J. Clifford, and that the same should be included and made a part of the bill of exceptions and the record in the cause, and in order that the record may speak the truth.

It is ordered, adjudged, and decreed that the entire testimony of the witness Frank J. Clifford in question and answer form taken during the trial of this cause be, and it is, hereby made a part of the record on appeal.

It is further ordered that the Clerk of this Court be, and he is, hereby directed to certify copies of this petition and order and to transmit the said petition and order and the said transcript of the testimony of the witness Frank J. Clifford to the Clerk of the United States Circuit Court of Appeals for the Seventh Circuit as an amplification of the record in this cause now pending in that court numbered 7500 and 7501.

The above-mentioned transcript is identified by the signature of the undersigned judge at page numbered 3956 thereof.

To the entry of which order defendants object and except and particularly to the jurisdiction of the Court to enter same.

Given under the hand of the Court before whom said proceedings were had this 30th day of September 1941.

JOHN P. BARNES, *Judge*.

4 In the District Court of the United States

[Title omitted.]

Answer to petition for amplification of the record

And now come the defendants herein by their respective counsel, and for reply to plaintiff's petition for amplification of the record, state to the Court as follows:

I

That the judgment of this Court herein upon the verdict therefore rendered by the jury was entered on October 23, 1940:

That thereafter and on the same date notices of appeal to the United States Circuit Court of Appeals, Seventh Circuit, from said judgments were filed with the Clerk of this Court in accordance with the rules of this Court applicable in such cases:

That thereafter the said appeals were perfected in accordance with said notices and the bill of exceptions approved by this Court on to-wit, January 21, 1941:

That thereafter written briefs and arguments and reply briefs were filed by the respective parties in said Circuit Court of Appeals and the said appeals were orally argued at length on to wit, May 27, 1941:

That on to wit, September 15, 1941, the said Circuit Court of Appeals rendered its opinion reversing the judgments appealed from, and the cause in said Court is awaiting the reception of petition for rehearing by the plaintiff, to which petition, if one is filed, defendants are entitled to file a reply.

II

Further answering, these defendants say that at no time during any of the proceedings aforesaid did the plaintiff herein
5 apply for a diminution or amplification of the record, or any part thereof, in said Circuit Court of Appeals, and said Court has not of its own motion or otherwise directed or ordered any diminution or amplification thereof.

III

Further answering, these defendants reserve unto themselves and do not by the filing of this answer waive any right or rights of objection to the jurisdiction of this Court to grant the relief requested in plaintiff's said petition; nor to object to proceedings thereunder, and, on the contrary, here assert that upon the filing of the aforesaid notices of appeal and the perfection of said appeal as aforesaid, the entire control of said appeals rested with the said United States Circuit Court of Appeals, Seventh Circuit.

IV

These defendants deny that plaintiff is entitled to the relief prayed for in said petition.

EDWARD J. HESS,

One of Counsel for Defendants.

FLOYD E. THOMPSON,

11 S. LaSalle Street,

EDWARD J. HESS,

111 W. Monroe Street,

JOHN ELLIOTT BYRNE,

105 W. Adams Street,

Attorneys for Defendants.

In United States District Court

Transcript of testimony of Frank J. Clifford

FRANK J. CLIFFORD, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

Direct examination by Mr. HURLEY:

Q. Will you state your name?

A. Frank J. Clifford.

Q. C-l-i-f-f-o-r-d?

A. That is right.

Q. Where do you live, Mr. Clifford?

A. Park Ridge, Illinois.

Q. What is your employment?

A. Internal Revenue Agent.

Q. How long have you been an Internal Revenue agent?

A. Almost fifteen years.

Q. How long have you been assigned to the Chicago office?

A. The entire time.

Q. In a general way, of what does your work consist as an Internal Revenue agent?

8 A. Examination and verification of income tax returns filed, from books and records.

Q. What has been your training and experience in accounting from an educational standpoint, Mr. Clifford?

A. I completed the accounting course offered by the Walton School of Commerce.

Q. That was for how many years?

A. Four years.

Q. What has been your training and experience in accounting from a practical standpoint?

A. In addition to that, Revenue Agent, and about five years in industrial accounting.

Q. And in the course of your work, did you have occasion to examine books and records?

A. Yes.

Q. In the course of your duties as an Internal Revenue agent, were you assigned Government's Exhibits R-10, R-11, R-12, and R-13, in evidence—

A. I was.

Q. (Continuing.) Being the individual income tax return for the defendant William R. Johnson, for examination and audit?

A. I was.

9 Q. Did you, in the course of your duty, also have available, Government's Exhibits R-6, R-7, R-8, and R-9, in evidence, being the returns for the years '32 through '35?

A. I did.

Q. By whom were you assigned?

A. Mr. L. H. Wilson, my superior revenue agent.

Q. What is Mr. Wilson's title?

A. He is a revenue agent, also.

Q. What, if anything, did you do in connection with that assignment?

A. The first return I got was for the year 1937, and I called the office of Mr. Joseph Johnson and told him I had the return of Mr. William Johnson for that year and would like to get in touch with him.

Q. About when was that, that you called Mr. Joseph Johnson?

A. That would be the latter part of January, '39. A couple of days later, Mr. Radomski called me.

Q. Is that Joseph Radomski?

10 A. Mr. Joseph Radomski, and made an appointment to go out to an office on South Green street, where he had the records. I went out there. I think it was January 27th, '39, and examined what records he had, which were the farm and the real estate.

Q. What records were there with reference to this item of the farm and the real estate?

A. The farm was cash receipts and expenditures book, a summary sheet—ledger sheet—and a lot of invoices, paid invoices; for the real estate, was monthly statements submitted by Mr. Tavelin, cancelled checks of the two buildings, at Thorndale and Glenwood and Division and Dearborn. Those were accounts with the Northern Trust.

Q. The reports on the real estate you refer to, are they Government's Exhibits E-7, E-9, E-12, E-14, E-15, E-16, E-17, E-18, E-19, E-20, E-22, E-23, E-24, E-25, and E-26; do you recall?

A. Copies of those exhibits.

Q. I show you the exhibits which I have just read, and ask you if they are the copies you saw at that time?

A. It was copies of these for the year '37 only.

11 Q. What did you do with reference to those books and records that you saw in Radomski's office?

A. I examined them and compared them with the figures that were shown on Mr. Johnson's return.

Q. And the farm records you speak of, what farm was that?

A. Sunny Acres Farm.

Q. You saw there cash receipts and disbursement books, and what were the other documents you saw there?

A. A summary sheet, which was in effect the ledger and pay invoices.

Q. Now, what if anything did you do with those books and records that you have described in Mr. Radomski's office?

A. I made an extract from the summary sheet of the operating expenses, as well as the capital items purchased during that year.

Q. That was for what year, Mr. Clifford?

A. That was for 1937.

Q. And did you have, as the result of that examination, do you have the records showing what those items were that you determined from those books and records?

12 A. The operating expense items are in accordance with the return. I checked those. The capital items is about one hundred and two thousand. The personal expense was about thirty-two thousand.

Q. When you say one hundred and two thousand—

A. Dollars.

Q. That was the expenditure, was it?

A. That was outside of the capital expenditures made during that year for improvements, cattle, machinery, equipment, *equipment*, and so forth.

Q. Were there any other records than those you have described submitted to you in Radomski's office?

A. No. I asked him if he had anything on the gambling income.

He said no, the figure on that return was given to him by Mr. Johnson. He did not have any detail on that.

Q. Did you later talk to William R. Johnson?

A. Yes. When I got back to the office I called Mr. Joseph Johnson's office again and told him I would like to talk to

13 Mr. William Johnson personally. We made an appointment to meet him in Mr. Joseph Johnson's office in the afternoon, February 3rd, '39.

Q. Yes?

A. I met Mr. Johnson on that day.

Q. That is William R. Johnson?

A. Mr. William R. Johnson.

Q. Who else was present at that time, Mr. Clifford?

A. Mr. Joseph Johnson and myself.

Q. What if anything was said by yourself and William R. Johnson on that occasion?

A. I asked him what record—I told him that Joe Radomski did not have any records on the gambling, and I asked him what

he had, and he said that all he had was a notation in a memorandum book showing the monthly total. I asked him if that is the only record he ever kept. He said no, he kept a daily summary, but at the end of the month he destroyed that. He did not have that little book with him. He told me that it was out on the farm. He would pick the figures out of it and send them to me. I also asked him about the purchase price
14 of the farm. He told me one hundred and forty-five thousand. He said it had the residence and usual farm buildings, a few horses, which he admits giving away, and a few cows and hogs. He further stated that he had made several improvements bought new machinery, and so forth.

Q. Was there anything further said at that time that you recall?

A. I don't recall anything more then.

Q. What is that?

A. I don't recall anything more at that time.

Mr. THOMPSON. Speak up just a little louder, Mr. Clifford, please.

Mr. HURLEY. Q. Did you at any time later after this conference you have described receive any figures from him?

A. Yes; several days later I went over to Mr. Joseph Johnson's office and picked up a piece of paper on which was shown the figures covering gambling for 1937.

Q. And from whom did you receive it?

A. Mr. Joseph Johnson.

Q. Do you have that document?

15 A. Yes.

Q. Did you see the Defendant, William R. Johnson, after that last date you have described, Mr. Clifford?

A. The next time I saw him was in Mr. L. H. Wilson's office, March 27, '39, at which time a question and answer statement was taken from Mr. Johnson.

Q. Who else was present at that time, if you recall?

A. Mr. Wilson, Mr. Riley Campbell, Mr. Johnson, and myself, and Miss Wakefield, the stenographer.

Q. I show you Government's Exhibit O-207 in evidence. I will ask you to look at it, Mr. Clifford.

A. Yes.

Q. Is that the statement, the question and answer form which you referred to?

A. Yes, sir.

Q. Now, did you see the Defendant William R. Johnson at any other time subsequent to the date you just mentioned?

A. The next time I saw him was in November, November 3rd, '39, in the office of Mr. W. A. Summers, Special Agent.

Who else was there at that time?

16 A. Those present at that time was Mr. Summers, Mr. Converse, Mr. Johnson, Mr. Wait, and myself.

Q. What Mr. Wait was that?

A. Mr. Ed Wait.

Q. Indicating the Defendant Wait?

A. Yes.

Q. Did you talk to the Defendant Johnson at that time?

A. I did.

Q. What did he say to you and what did you say to him?

A. I called his attention to the fact there was no record on the books of the catering company for the Bon-Air land. He said, "That is mine." I asked him were the credits on the books of account his. He said those were advanced by me. That applies also to the account of Bud Geary. I asked him if he owned 9730 South Western Avenue. He said, "Yes." When I asked him as to the cost of Bon-Air and 9730, he referred me to Mr. William Goldstein.

Q. What did he say, referring you to Goldstein?

17 A. I asked him if he knew what the costs were. He said, "You get in touch with Mr. Goldstein. He will give you the details and the cost."

Q. Was there anything else said between yourself and Johnson at that time, do you recall?

A. I made a notation of the conference. I can't recall what else now without referring to it.

Q. Do you have your notation?

A. I do.

Q. Will you refer to it, please?

A. Yes.

Mr. THOMPSON. I want the record to show that the witness is referring to a memorandum which we should desire to see on cross-examination.

The WITNESS. That is all.

Mr. HURLEY. Q. There wasn't anything further?

A. There was a remark by Mr. Wait.

Q. I am just asking you about Johnson. At that time and place did you talk to Mr. Wait or did he talk to you?

A. I asked Mr. Wait a question. I asked him if the credit shown on the books at the Bon-Air was his. And he said it was.

Q. Did you ever have occasion to go to an address
18 known as 3428 Lawrence Avenue?

A. Yes, sir.

Q. About when was that?

A. The afternoon of October 31, '39.

Q. And what did you do when you arrived at 3424?

A. When I went out there it was for the purpose of getting in touch with Mr. Brown, of the Lawrence Avenue Currency Exchange. When I got there I found it was closed. The young lady gave me Mr. Brown's home address, 4200 Hazel Street. So I went over there. There was no answer to my pushing on the button. So I left a note in Mr. Brown's mail box to call me up the next day, to call me. The next morning I got a call. It said it was Mr. Brown. I told him I would like to look at the—

Mr. THOMPSON. We object to this as hearsay conversation and not binding on any of these defendants, except the Defendant Brown, if he is identified.

The COURT. Sustained as to the other defendants. Overruled as to the Defendant Brown.

19 Mr. HURLEY. Q. Now, what talk did you have with this man that said he was Mr. Brown? What was the first name of this Mr. Brown you talked to?

A. S. S. Brown. I had the name on the card.

The COURT. We will recess at this time until two o'clock P. M. (A recess was taken at 12:30 o'clock P. M. to 2:00 o'clock of the same day, being Tuesday, September 24th, 1940.)

20

UNITED STATES OF AMERICA

vs.

WILLIAM R. JOHNSON ET AL.

Before Judge BARNES and Jury

Tuesday, September 24, 1940.

2:00 o'clock p. m.

Court met pursuant to recess.

Present: Mr. Wm. J. Campbell, Mr. E. Eiley Campbell, Mr. Hurley, Mr. Plunkett, Mr. Miller, Mr. Thompson, Mr. Hess, Mr. Callaghan.

The COURT. Proceed.

FRANK J. CLIFFORD, resumed the stand, testified further as follows:

Direct examination (continued) by Mr. HURLEY:

Q. Are you the same Frank J. Clifford who was on the stand before recess?

A. Yes, sir.

Q. Now, calling your attention to the computation you
21 said that you made with reference to documents in the form
of cash books and the summary sheets in Radomski's office,
can you give us the exact figure of your computation on that,
Mr. Clifford?

A. For the capital items it is \$102,223; for the personal items,
it is \$3,238.14.

Q. Was there an item as to the personal items that you have
referred to for each of these years, '32 to 1939?

A. These are for the years '37 and '38. There are no personal
on any of the other years.

Q. Very well. Now, did you at a time later than the date
which you have testified you were out at Mr. Radomski's office,
were you there at a later time?

A. Yes, sir.

Q. And when was that?

A. That was in the fore part of May 1939.

Q. And had you talked to the defendant William R. Johnson
before you went to Radomski's office?

A. Yes; when I met him in Mr. Wilson's office on March 27th
I told him that I would like to continue with the year 1938, but
as I didn't have the original return would it be all right to work
from his copy and he said yes. Within a short time
22 thereafter Mr. Radomski called me and we made an ap-
pointment, but I was not able to keep that for some little
time later and I wasn't able to get out there until the first part
of May.

Q. 1939?

A. 1939.

Q. Did you at that time make a computation as to the amount
shown on the documents which you examined at that time?

A. Those which were not on the return. That is, the capital
items and the personal items.

Q. And from what did you get that information?

A. From the records that Mr. Radomski had, the summary
sheet.

Q. And were those the books and records of the defendant
Johnson, if you know?

A. They were.

Q. And what figure did you arrive at as a result of your
examination of those documents and books?

A. For the capital items, the figure \$16,809.26; the items
charged to the personal account were \$3,002.49.

Q. And those were for what year?

A. That was for the year 1938.

23 Q. Now, I believe when Court adjourned for lunch you were testifying about a phone conversation with a man named Brown. Will you tell us when you first talked over the phone with this man named Brown?

A. It was on the morning of November 1st, 1939. I got a call from this party who said he was Mr. Brown.

Q. What did he say and what did you say to him?

Mr. THOMPSON. We object. That is already in once.

Mr. HURLEY. Not the entire conversation, as I recall it.

Mr. THOMPSON. Yes; but the Court has already confined it to Brown. He hasn't even identified the defendant Brown.

Mr. HURLEY. He is only testifying it was a man who said he was Brown. The witness left a note in the mail box at the apartment where he was told this Brown lived and subsequently he gets a call from a man who says his name is Brown.

Mr. THOMPSON. All of which, from counsel's statement, is hearsay.

24 The COURT. How did you get this address that you went to?

The WITNESS. From the girl who was out at the 3424 address, Lawrence Avenue address, who I later learned to be Mrs. Koop.

The COURT. Do you know whose voice it was?

The WITNESS. I didn't.

The COURT. Do you now?

The WITNESS. No; I wouldn't know. I asked him a question to identify him.

The COURT. Well, I don't know what that was. I will hear what it was. What was it?

The WITNESS. I asked him if he was the man who operated the Lawrence Avenue Currency Exchange and he said he was.

The COURT. Strike it out.

Mr. HURLEY. The Grand Jury testimony of Brown himself says that he had talked to Clifford.

The COURT. It may be admissible—

Mr. HURLEY. Against Brown.

The COURT (Continuing.) Against Brown. What is the purpose of this?

Mr. HURLEY. To show that Brown told him too that the records—he told him that he wanted to talk to him about the
25 records and Brown says it won't do any good to talk to me about that. I have already destroyed them. That is stronger testimony than the Grand Jury testimony.

The COURT. You say Brown testified he talked to Clifford?

Mr. HURLEY. He had had a phone call from Clifford.

Mr. HESS. He didn't say Clifford, he said some agent.

Mr. HURLEY. As I recall it he said Clifford.

Mr. HESS. No; the interrogator said that; the interrogator used that name. He didn't know who it was any more than the man in the moon, according to that record you read.

The COURT. I will let him testify and it will be admissible only against Brown.

Mr. HURLEY. Q. Did you talk to this man that said his name was Brown over the telephone?

A. I did.

Q. What did he say to you and what did you say to him?

A. When he told me he was Mr. Brown I asked him if he was the Mr. Brown who operated the Lawrence Avenue Currency Exchange and he said he was, and I then told him that I would like to examine the records of the Lawrence Avenue Currency Exchange and he said, "Well, you can't very well do that because I have already destroyed them." I asked him to come downtown anyway so that I could talk to him about the records generally and he made an appointment to come down at 1:30 in the afternoon of that day. At 1:30 I got a call from the man who said he was Mr. Brown, and to me it seemed to me like the same voice, who said he couldn't make it, he would be down the next morning at 9:30, and the next morning at about that time I got a call from a woman who said she was Mrs. Brown, said that he had gone out of town.

Mr. HESS. That is objected to, if Your Honor please, not binding on any of them.

The COURT. It may stand as against Brown.

Mr. HURLEY. Q. Did you at any time subsequent to that have an appointment with the defendant Brown?

A. No; I was never able to get in touch with him after that.

Mr. THOMPSON. Oh, we object to that sort of statement.

27 The COURT. Strike it out. Answer the question.

The WITNESS. What was the question?

(Question read.)

A. No, sir.

Mr. HURLEY. Q. Now, have you made a computation and an analysis based on the exhibits X-178, X-179, X-181, and X-180-1 to X-180-389, and the other evidence in the record, to determine the amount of currency delivered by the Central National Bank to the Lawrence Avenue Currency Exchange between the months of July 1938 and September 1939, inclusive?

A. Yes, sir.

Mr. THOMPSON. We object to that.

The COURT. Overruled.

Mr. HURLEY. Q. And can you state what the amount shown by your computation is?

A. Approximately one million—

Mr. THOMPSON. Just a moment. The answer is yes or no.

The WITNESS. Yes, sir.

Mr. HURLEY. Q. And what is the amount?

Mr. THOMPSON. Now, we object. This is the question we
28 want to object to. There is no proper foundation laid for
any such computation. It is immaterial as to any issue
in this case. Tends in no way to show the taxable income of the
defendant Johnson. Furthermore, you can't lump figures for
fractions of three years, under any count of this indictment. It
is hearsay as to every defendant in this case, and particularly as
to the defendant Johnson.

The COURT. Overruled.

Mr. THOMPSON. Furthermore, the witness has not yet identified the documents from which he is testifying.

The COURT. Overruled.

A. The amount was approximately \$1,289,000.

29 Mr. HURLEY. Q. Can you give us the exact amount, Mr. Clifford?

A. I have not got it. That is just a computation I made.

Q. One computation you made?

A. Yes, sir.

Q. Now, Mr. Clifford, have you made an analysis and computation, based on Government's Exhibits admitted in evidence, Government's Exhibits R-6, R-7, R-8, R-9, R-10, R-11, R-12, R-13, being the income tax returns of the defendant Johnson for the years 1932 to 1939, inclusive; and Exhibits R-86, R-87, R-88, to and including R-106, inclusive, which are certified copies of the assessment list from April, 1929, to April, 1940, inclusive; and Exhibits E-7, E-9, E-12, E-14, E-15, E-16, E-17, E-18, E-19, E-20, E-22, E-23, E-24, E-25, E-26, E-27, E-27-A, E-28, E-28-A, E-29, E-29-A, E-30, E-30-A, E-31, E-31-A, E-31-B, E-32, E-32-A, E-33, E-33-A, E-33-B, E-34, E-34-A, E-35, E-35-A, E-36, E-36-A, E-37, E-37-A, B, C, D, E-38, E-38-A, E-39, E-39-A and B, being the escrow agreements, E-41, which is the escrow agreement of the Gary-Wheaton bank and
30 E-46 to E-66, inclusive, being the Bon Air and the Horwath records; E-71, E-72, E-77, E-78, E-81, E-82, E-83, E-84, E-85, E-86, E-87, E-88, E-89, E-90, E-91, and through to E-95, inclusive; E-97 to E-100, inclusive, and E-102, being the 1939 Bon Air expenditures, ledger sheets; and O-207; Exhibits X-1 to X-138, inclusive; X-139 to X-164, inclusive; X-170, and X-171, X-172-D, F, G, H, J, K, L; 173-V, W, T, Q, P, N, M, A, F, D, W, U, T, O, R, Q, P, N, H, G, E, D, F; X-174-A, B, C, D, E, F, H, J, L, M; X-178, X-181, X-182, X-183, X-184, X-185-A to V, X-191, X-191-A to X-191-5-Q, X-194, X-200

to X-207, inclusive; have you made a computation based on those exhibits which I have enumerated, and other evidence in the record, to determine the amount of the net cash income reported by the defendant William R. Johnson for the years 1932 to 1939, inclusive?

A. I have.

Q. Can you state what that amount is?

Mr. THOMPSON. We object to that as improper, to lump all of these things into one mass. It is not competent proof under any particular count of this indictment; it is not proper
31 identification of the evidence which the witness is to consider has been made; it is not a proper hypothetical question; it does not contain all of the elements required for such a question. It is otherwise immaterial, so far as the evidence in is concerned; in no way connected with the defendants.

The COURT. Overruled.

The WITNESS. A. The total amount of income reported over that period was \$1,188,041.85. Adding to that the amount that he had on hand as of the beginning of 1932, the total is \$1,256,041.85.

Mr. HURLEY. Q. Now, Mr. Clifford, based on those exhibits which I have enumerated, and the other evidence in the record, have you made a computation as to the expenditures of the defendant William R. Johnson for the years 1932 to 1939, inclusive?

A. I have.

Q. Will you state what that computation is; what the amount is?

Mr. THOMPSON. We object to that on the ground that you cannot lump expenditures over a period of ten years or so.
32 There is no identification of this requested answer to any particular count of the indictment in this case; that the offered proof will not prove, or tend to prove the taxable income of the defendant Johnson for the specific years 1936 or 1937 or 1938 or 1939, which are the only years covered by the indictment; and proper foundation has not been laid, and it is not properly stated; the hypothetical question does not contain all of the elements required in such a question, and it does contain elements which are improper to consider in such a question.

The COURT. Overruled.

The WITNESS. A. The total amount of those expenditures was \$1,730,391.39.

Mr. HURLEY. Q. That is for the period 1932 to 1939, inclusive?

A. Yes, sir.

Q. Have you made a computation from the figures which you have just given us as to what the excess of expenditures over net cash income reported was over that same period of time?

A. I have.

Q. Will you state what that amount is?

33 Mr. THOMPSON. We object on the grounds already stated to the last two questions on these computations.

The COURT. Overruled.

The WITNESS. A. The amount of such excess of expenditures over income is \$474,349.54.

Mr. HURLEY. Q. Now, Mr. Clifford, with the exhibits just a moment ago enumerated, and the other evidence in the record, have you made a computation to determine the total amount of gross income of the defendant Johnson for the calendar year 1936?

Mr. THOMPSON. Now, the answer—

Mr. HURLEY. Q. Have you made a computation? Answer yes or no.

The WITNESS. A. Yes.

Q. What is the amount, from your computation, of the gross income of the defendant Johnson for the calendar year 1936, according to your computation?

Mr. THOMPSON. If the Court please, there is no identification of any document which is being used by the witness, or any of the evidence that has been produced here in court from
34 which he has made his computation. We object that the question is not in proper form, the proper elements have not been stated, and the elements being included in the general character of the question are not proper to be considered.

The COURT. Read the question.

(Question read by the reporter as follows: "What is the amount, from your computation, of the gross income of the defendant Johnson for the calendar year 1936, according to your computation?")

Mr. HURLEY. No; the question before that.

(Question read by the reporter as follows: "Now, Mr. Clifford, with the exhibits just a moment ago enumerated, and the other evidence in the record, have you made a computation to determine the total amount of gross income of the defendant Johnson for the calendar year 1936?")

The COURT. You are making reference to those exhibits and the evidence in the record?

Mr. HURLEY. He used those as a basis for his computation.

The COURT. Overruled.

35 The WITNESS. What is the question?

(Question re-read by the reporter.)

The WITNESS. A. \$547,942.38.

Mr. HURLEY. Q. Are you able to state the amount of net income of the defendant Johnson for the calendar year 1936, according to your computation, based upon exhibits I have enumerated and the other evidence in the record?

Mr. THOMPSON. Same objection, your Honor.

The COURT. Overruled.

The WITNESS. A. The income I gave you, Mr. Hurley, was the net income, subject to tax after allowance of all statutory deductions.

By Mr. HURLEY:

Q. So that your previous answer was on the basis of net income rather than gross income?

A. That is right.

Q. Is that right?

A. That is right.

Q. Are you able to state the amount of tax still due by the defendant Johnson to the United States for the calendar year 1936, after allowing credit for the amount of tax shown on defendant's tax return for the year as shown by Government's Exhibit R-10, in evidence?

36 A. Yes, sir.

Q. And what is the total amount of tax still due the United States, according to your computation, for the year 1936?

Mr. THOMPSON. We object to the question on the ground that the proffered hypothetical question does not contain the essential elements of such a question; no proper foundation has been laid for the answer to the question by the witness.

The COURT. Overruled.

Mr. THOMPSON. And elements are being injected into the question which are not pertinent to the income for that year, and that elements are being omitted which are essential.

The COURT. Overruled.

Mr. HURLEY. Read the question.

(Question read by the reporter.)

The WITNESS. A. \$268,041.09.

37 Q. Now, Mr. Clifford, have you made a computation based on the list of exhibits which I have read to you and the other evidence in the case to determine the total amount of gross income for the Defendant Johnson for the year 1937?

A. I have for the net income.

Q. And are you able to state the amount of the net income of the Defendant Johnson for the calendar year 1937 according to your computation?

A. Yes, sir.

Q. What is that amount?

Mr. THOMPSON. For the same reasons we have assigned as to the similar question for 1936 we object to this question.

The COURT. Overruled.

The WITNESS. \$1,047,129.77

Mr. HURLEY. Q. Now, are you able to state that amount of the tax still due by the Defendant Johnson to the United States for the calendar year 1937, after allowing credit for the amount of tax shown on the Defendant's return for that year, Government's Exhibit R-11 in evidence?

A. Yes, sir.

38 Q. And what is the total amount of tax still due to the United States, according to your computation for the calendar year 1937?

Mr. THOMPSON. On the same ground that we objected to a similar question that was for 1936, we object to this one.

The COURT. Overruled.

The WITNESS. \$588,064.20.

Mr. HURLEY. Q. Mr. Clifford, have you made a computation based on the exhibits I have heretofore read to you and the other evidence in the case to determine the total amount of net income of the Defendant Johnson for the calendar year 1938?

A. I have.

Q. Are you able to state from that computation the amount of net income of the Defendant Johnson for the calendar year of 1938, according to your computation?

A. Yes, sir.

Q. What is that amount?

Mr. THOMPSON. On the same grounds we objected to a question of like import with respect to the year 1936, we object to this question.

The COURT. Overruled.

The WITNESS. \$935,353.80.

39 Mr. HURLEY. Q. Are you able to state from your computation the amount of tax still due by the Defendant Johnson to the United States for the calendar year 1938, after allowing credit for the amount of tax shown on Defendant's return for that year, being Government's Exhibit R-12 in evidence?

A. Yes, sir.

Q. What is the total amount of tax still due the United States according to your computation for the calendar year 1938?

Mr. THOMPSON. On the same ground that we objected to a similar question for the year 1936, we object to this one.

The COURT. Overruled.

The WITNESS. \$596,521.95.

Mr. HURLEY. Q. Have you made a computation based upon the exhibits which I have enumerated heretofore and also the other evidence to determine the total amount of the net income of the Defendant Johnson for the calendar year 1939?

A. I have.

40 Q. Are you able to state from that computation the amount of the net income of the Defendant Johnson for the calendar year 1939 according to your computation?

A. Yes, sir.

Q. What is that amount?

Mr. THOMPSON. On the same ground we have objected to a like question for the year 1936, we object to this question.

The COURT. Overruled.

The WITNESS. \$961,504.77.

Mr. HURLEY. Q. Are you able to state from that computation the amount of tax still due by the Defendant Johnson to the United States for the calendar year 1939, after allowing the credit for the amount of tax shown on Defendant's return for the year, being Government's Exhibit R-13 in evidence?

A. Yes, sir.

Q. What is the total amount of tax still due to the United States according to your computation for the calendar year 1939?

Mr. THOMPSON. On the same grounds we objected to a like question for 1936, we object to this question.

The COURT. Overruled.

41 The WITNESS. \$250,497.10.

Mr. HURLEY. You may cross-examine.

Cross-examination by **Mr. THOMPSON**:

Q. Mr. Clifford, in making your calculation, you are assuming that Mr. Johnson had on hand on December 31, 1932, a certain stated sum of money, is that right?

A. Yes, sir.

Q. What was that sum of money?

A. \$68,000.00.

Q. \$68,000.00 was all the cash he had on hand on that day, according to your assumption?

A. Per the testimony of Mr. Wilson.

Q. I say that is your assumption, is it?

A. Yes, sir.

Q. Did you ignore the ten thousand dollars that Mr. Wilson testified Mr. Johnson said he had in his bankroll at that time?

A. Yes, sir.

Q. You had before you at the time you were making these examinations, all Mr. Johnson's returns from 1932 on, and also the returns of Mr. Johnson for the prior years, didn't you?

42 A. I don't think I referred to them.

Q. You had them before you?

A. I don't know. I am not sure that I did. I have seen them. I don't know whether I had them before me.

Q. You had his '31 return?

A. I don't recall having '31.

Q. You had his '30 return?

A. I don't recall that.

Q. You had his '29 return?

A. I don't recall that.

Q. You had his '28 return?

A. I don't recall that.

Q. You had his '27 return, didn't you?

A. I don't recall any of those returns that I used in connection with this computation.

Q. I did not ask you whether you used them. You had them before you, didn't you?

A. I have seen them; yes. I have seen those returns.

Q. You have not seen any prior to 1937, have you?

A. You mean '27?

Q. '27?

A. No.

43 Q. Those have been destroyed by the Government, haven't they?

A. I don't know.

Q. Well, didn't you try to get the returns back of 1937, way back to the time Mr. Johnson commenced making his return?

A. I didn't.

Q. Well, did your chief, or someone in the department?

A. I don't know.

Q. Did you note from the returns prior to 1932 that Mr. Johnson had reported a very large income over a period of some ten years, each year?

A. The returns for '27 through '31, inclusive, show reasonable amounts, yes. I have never totalled them.

Q. You never made any effort to determine whether or not Mr. Johnson had disposed of all this income and had only \$65,000.00 left in 1931?

A. It was my understanding there he had disposed of it in '31.

Q. You understand that from what Mr. Wilson testified to?

A. Not from the revenue agent's report.

Q. From the revenue agent's report?

44 A. Yes, sir.

Q. Well, in making this calculation and these answers you have made here, you assume as true all of the evidence that has been offered by the prosecution?

A. I have taken the exhibit and the testimony of figures and have used those in computing the additional tax.

Q. And what amount did you compute as the amount that Mr. Johnson expended with respect to acquiring his interest in the property at 9730 South Western Avenue?

A. \$13,115.00 for the land, \$22,400.00 for the building.

Q. Did you ignore the fact that the \$22,400.00 for the building was paid by Mr. Skidmore, as Mr. Nadherny testified?

A. I took—

Q. Did you ignore that fact?

A. I did not accept it.

Q. All right.

A. That statement in my computation.

Q. You ignored it, then? You did not accept it?

45 A. I relied on Mr. Johnson's statement that he owned the property. He told me that he owned the property, yes, sir.

Q. So you are using your own testimony as part of the testimony on which you make your computation, are you?

A. No; I am using Mr. Johnson's statement.

Q. Mr. Johnson has made no statement in this hearing.

Mr. HURLEY. I object to counsel.

Mr. THOMPSON. Q. You are using your own testimony, are you, Mr. Clifford?

A. As to Mr. Johnson's statement he made to me, yes, sir.

Q. And you ignored the testimony of the architect that Mr. Skidmore paid him \$22,400.00?

A. Mr. Nadherny's statement was that he thought he was paying it as the agent for Mr. Johnson.

Q. You ignored his testimony that Mr. Skidmore paid the \$22,400.00?

Mr. HURLEY. I object. He has answered the question.

Mr. THOMPSON. I want an answer to some of these questions.

Mr. HURLEY. You will get them.

The COURT. What was the last answer?

46 (The last answer read as recorded.)

The COURT. Q. Can you tell us whether you did or did not ignore it?

A. I did.

Mr. THOMPSON. Q. You did ignore it?

A. Yes, sir; that is right.

Q. Did you ignore the testimony of Mr. Goldstein on cross-examination that Mr. Johnson acquired one-half of his property and that Mr. Skidmore acquired the other half of it?

A. Yes, sir.

Q. You ignored that?

A. Yes, sir.

Q. You took the top figure always in making a computation? Whatever the evidence showed against Mr. Johnson you took the top figure?

A. Not in all cases.

Q. Which case did you take other than the top figure?

A. I think Mr. Nadherny said he got the eight-hundred dollar fee. I did not include that in there.

Q. In connection with what?

A. Building the building at 9730.

47 Q. Well, he said Mr. Skidmore paid him that, didn't he?

A. Yes. He said Mr. Skidmore gave him the money.

Q. Now, what amount did you use in your calculations as the amount spent by Mr. Johnson in acquiring the Dells property?

A. Nineteen thousand.

Q. Nineteen thousand?

A. Yes, sir.

Q. You ignored the testimony of Mr. Goldstein on cross-examination that Mr. Skidmore acquired half of that, is that right?

Mr. HURLEY. I object to that. That is not the record, if the Court please. There is no such testimony in the record.

The COURT. You contend there is any such testimony as that?

Mr. THOMPSON. I contend there is. I contend he knew about Mr. Goldstein in '36, and the computations on that, he recognized Mr. Skidmore's handwriting, and it developed as a fact on cross-examination.

The COURT. Objection sustained.

Mr. THOMPSON. Q. What amount did you charge to
48 Mr. Johnson as the expenditures in acquiring the real estate now known as the Bon-Air property?

A. \$95,056.73.

Q. What were the items that made up that amount?

A. The original purchase at the Bon-Air proper, \$75,000.00; that which is represented by Exhibit A-32, \$7,600.00; Exhibit E-33, \$8,456.73; E-34, \$4,000.00.

Q. Is that all?

A. That is the Bon-Air property; yes, sir.

Q. What about the \$60,000.00 farm?

A. I show that as the Curran farm.

Q. You separated them?

A. That is a different subject.

Q. You included that, did you?

A. I beg your pardon?

Q. You included that as part of the Bon-Air, did you?

A. Yes. No; not as Bon-Air, but as part of the expenditures.

Q. All right. Did you include any other items out there in the Columbian Gardens whatever?

A. Yes. There is one for the Columbian Gardens Addition, of \$17,500.

49 Q. What else?

A. That is all.

Q. Did you include the \$7,500.00 deposit that Mr. Goldstein paid on the contract for the purchase of certain other property from the Evanston Bank in 1939?

A. That is part of the seventeen thousand, ten with the Chicago Title, seventy-five hundred with the Evanston Bank.

Q. You included that, did you?

A. Yes, sir.

Q. And you used those figures solely on the testimony of Mr. Goldstein, is that right?

A. No. I had the records of the Chicago Title and the testimony of the bank man as to amounts.

Q. As to amounts, and as to the identity of Mr. Johnson as the payer of the sums, you used Mr. Goldstein's testimony exclusively?

A. Yes, sir.

Q. What ground did you use as the expenditures of Mr. Johnson on the Division and Dearborn property?

A. In addition to those which are shown on his return as capital expenditures, I used the Air Comfort figure of fifteen thousand, three-hundred and ninety.

50 Q. Is that all you used?

A. In addition to those which are reflected on his return.

Q. What are shown on his returns as capital expenditures?

A. Classified as improvements and furnishings.

Q. Capital expenditure for acquiring of property, did you include that in these computations?

A. Yes, sir. You have the acquisition of the equity.

Q. How much did you charge to Mr. Johnson for that?

A. Sixteen thousand.

Q. You used Mr. Tavalin's estimate that it was somewhere in the neighborhood of sixteen thousand, is that right?

A. I think he said sixteen thousand. That was my recollection.

Q. At least you used whatever he said on the subject?

A. That is right.

Q. What did you use next?

A. The payment of the second mortgage.

51 Q. How much did you charge him for the payment of the second mortgage?

A. Forty-five thousand.

Q. You charged him the value plus the mortgage, forty-five thousand dollars?

A. Yes, sir.

Q. You gave no consideration to the testimony that he bought part of the notes at a discount, did you?

A. That was not clear. I had no way of telling what the amount was.

Q. So you took the top figure of forty-five thousand?

A. Took the top figure of forty-five thousand, yes, sir.

Q. What else did you add on there?

A. The payment of the first mortgage.

Q. How much did you charge him for that?

A. One-hundred and fifty thousand.

Q. Now, any other items?

A. The taxes, delinquent taxes, which were capitalized.

Q. You capitalized those, did you?

A. No. I took the figure of Mr. Brantman, as being the total of the delinquent taxes.

52 Q. Then, you used that as the capital investment and put them on there as an expenditure, is that right?

A. That is right.

Q. How much did you charge him for that?

A. \$15,205.48. That is only 75 percent of the total delinquent paid.

Q. Anything else?

A. Then the Lincoln Park improvements and furnishings. They are spread over a period of years.

Q. Those appear on the return, is that right?

A. With the exception of the Air Comfort expenditure.

Q. These apartment furnishings and so on, that all appears on his income-tax return, doesn't it?

A. Yes, sir.

Q. What items constitute the total that you calculated as the expenditures of Mr. Johnson for the year 1936?

A. Income taxes, payment of the first mortgage, Lincoln Park Building improvements and furnishings, the Thorndale and Glenwood improvements, or furnishings, and the purchase of the first piece of the Dells property.

52 Q. What is the total that you have of his expenditures for the year 1936?

A. \$84,820.47.

Q. And what was the total income Mr. Johnson reported for the year 1936?

A. After giving a credit total of—after giving a credit for depreciation, when he arrived at his total cash income, it was \$173,425.28. I am just adding that as I go along.

Q. In other words, according to your computation he spent \$84,000.00 in round figures in 1936 and reported an income of one-hundred and seventy thousand odd dollars?

A. That is right.

Q. What items did you use in your calculation of the expenditures for 1937?

A. Income taxes paid, Lincoln Park improvements, Thorndale-Glenwood furnishings, the second Dells property, purchase of Albany Park Bank Building, purchase of the land and construction at 9730 South Western, purchase of the Sunny Acres Farm, and the capital items, improvements which were put on the farm after he bought it, such personal expenses as were shown on the farm books, and the DuPage real estate.

54 Q. What was the last?

A. The DuPage farm that was adjacent to the Sunny Acres piece.

Q. \$16,050.00?

A. \$16,050.00.

Q. So you charged him with the cost price of the Albany Park Bank Building, did you?

A. Yes, sir.

Q. That was on Goldstein's testimony?

A. Yes, sir.

Q. And you charged him the full amount on 97th and Western that was spent by anybody, so far as any testimony is concerned?

A. Yes, sir.

Q. What was the total you charged him on 97th and Western?

A. \$35,515.00.

Q. The second payment on the Dells you charged him the amount Goldstein testified to, \$10,000.00?

A. No; nine.

Q. Nine thousand dollars?

A. Yes, sir.

Q. Now, this capital expenditure on farm, for 1937, that was one hundred and two thousand, I think you said?

A. \$223.

Q. That was for putting some new construction on the farm, for buying livestock and so on, I think he said. What were the items that made up the one-hundred and two thousand?

A. Building improvements, \$74,933.41; cattle, \$10,946.99; chickens, \$103.75; small tools, \$1,332.82; machinery and equipment, \$13,912.63, auto truck, \$583.50; harness, \$379.90.

Q. Is that all?

A. Makes a total of \$102,223.00.

Q. Did he sell any cattle that year?

A. Not that year.

Q. Did he sell any chickens?

A. I don't know.

Q. Well, you didn't take the cash receipts for the year and deduct them from disbursements, where they were applicable, did you?

A. Where they were applicable, yes. The next year when he sold cattle I did deduct them, deduct the amount, cost price of those cattle sold.

Q. What about the poultry and so on?

56 A. Chickens, that is shown in his profit and loss farm statement. In the loss he deducted, covering the operation of the farm, includes such figures.

Q. That is all shown on his income tax statement, isn't it?

A. Yes, sir.

Q. Now, 1938, you say he made capital expenditures—let us go back to '37. Strike out the question. Now, let us get to the income, let us get to the expenditures for 1938 now. What are the items of expenditures for 1938?

A. Income taxes for the year '37 and in '38 the Lincoln Park Building improvements, Thorndale-Glenwood furnishings, Sunny Acres capital item, personal expense, Sunny Acres, Bon-Air property purchase, Bon-Air Catering advances, and the loan to William R. Skidmore.

Q. Now, the capital item for 1938 of the farm? I think you said they were sixteen thousand and some odd dollars?

A. I subtracted from that the cost of the cattle sold in '38.

Q. What were the cattle items for '38?

57 A. In here it is, \$12,375.27, which is the total he purchased, and makes the cost of the cattle as giving him a credit for that.

Q. What were the items that make up this sixteen thousand dollars?

A. The items?

Q. Yes.

A. Cattle purchased, \$8,519.14; new construction and improvements, \$4,420.82; miscellaneous items, \$3,869.30.

Q. That makes the sixteen thousand and dollars, does it?

A. Yes, sir.

Q. Now, as to the expenses out at the Bon-Air, you assumed that he made all of those?

A. He told me he did.

58 Q. Using your own testimony there as the basis of that computation?

A. Yes, sir.

Q. Now, as to 1939, what were your capital expenditures that you say Mr. Johnson made?

A. Income taxes paid, Lincoln Park building improvements and furnishing, capital expenditures for the farm, advances to Bon Air, both as per the book record and those not on the books, purchase of the Curran farm, and the deposits in connection with the Columbian Garden real estate.

Q. What about the items of Bon Air shown by Exhibits E-42, 43, 44, and 45, ledger sheets of Albert Pick & Company, how much did you charge as expenditures of the Bon Air Catering Company for 1939?

A. You mean in connection with the Bon Air? You said the Bon Air Catering Company. I didn't charge anything on that. But I charged in my expenditure statement for Mr. Johnson, \$5,577.30. I eliminated all which were shown as having been paid by the Bon Air Catering Company.

Q. That is, you eliminated the items that were on the Bon Air Catering Company book—

A. Yes, sir.

59 Q. (Continuing.) Showing that they had been paid on these sheets, did you?

A. Yes, sir.

Q. Now, did you charge to Mr. Johnson the items the witness said Mr. Skidmore paid out there?

A. What witness?

Q. Well, the \$3,000 that Mr. Reedy said was given to him by—

Mr. HURLEY. Object, if the Court please. There is no evidence of that. None whatsoever.

The COURT. Do you contend there is such evidence, Judge Thompson?

Mr. THOMPSON. Yes, sir.

Mr. HURLEY. I would like to see it first.

The COURT. Who said it?

Mr. THOMPSON. Mr. Reedy, the plumber, who said that Mr. Wait handed him \$3,000 in his presence, on cross-examination, which Mr. Skidmore then handed him. That was the incident of the large old fashioned thousand dollar bill.

Mr. HURLEY. He testified about an old thousand dollar bill, but he didn't say anything about getting it from that source. He emphatically denied it, as I recall it.

60 The COURT. Well, you can ask him whether he included that \$3,000, if it was \$3,000, or a thousand, if it was.

Mr. THOMPSON. Q. You did include that \$3,000, anyway, did you, Mr. Clifford?

A. I included the amount that was shown on Mr. Reedy's statements.

Q. You also included all of Mr. Nadherny's architect fees, did you?

A. Yes, sir.

Q. Notwithstanding his testimony that Mr. Skidmore paid part of them?

A. Yes, sir.

Q. Now, let's get to this income. What items did you include as the income of Mr. Johnson for 1936?

A. The hundred dollar bills that came from the Lawndale Currency Exchange.

Q. All of them?

A. All of them.

Q. All the hundred dollar bills that came from the Lawndale Currency Exchange you said was Mr. Johnson's income in your calculations, is that right?

61 A. Yes, sir.

Q. All right.

A. The currency deposited by the Albany Park Safety Deposit—or, currency exchange—as evidenced by their deposit tickets with the Milwaukee Avenue National Bank and Mr. Marcus' testimony.

Q. That is, all of the deposits made by the Albany Park Currency Exchange—

A. Albany Park.

Q. (Continuing.) You included in Mr. Johnson's income, did you, for that year?

A. With the exception of those which were made on certain paydays which Mr. Marcus said he might have occasion to re-deposit. If there were any such days I didn't include those.

Q. Which ones did you not include?

A. For '36 there were none.

Q. All right. What other items did you add into Mr. Johnson's income for 1936?

A. Currency exchanged at the Northern Trust Company.

Q. That is, all the money that was exchanged over at the Northern Trust Company, according to this testimony, you put into Mr. Johnson as part of his income?

62 A. Yes, sir.

Q. All right.

A. Checks cashed at the Northern Trust Company.

Q. All those checks you assumed were Mr. Johnson's income?

A. Yes.

Q. All right.

A. Checks cashed at the Albany Park Currency Exchange.

Q. All checks cashed at the Albany Park Currency Exchange?

A. No, no. Gamblers' checks. Those marked on those sheets as gamblers' checks. The same way with the Northern Trust Company. Those that were shown as having been cashed by Mr. Jack Sommers. Gamblers' checks. Not all checks. Mr. Marcus had his records marked in such a way that those gamblers' checks could be distinguished from all the other checks. So I took only the gamblers' checks.

Q. How did you distinguish the gamblers' checks that were on Mr. Marcus' records?

A. By the marks which he had opposite those checks. J. S., M. D., No. 1, 2, 3, H. S., D. D., K. L.

Q. You calculated those all as gamblers' checks?

63 A. Yes.

Q. And you added all of them together and said that is Mr. Johnson's income, is that right?

A. Yes, sir.

Q. All right, go ahead.

A. Checks cashed at the Mid-City National Bank.

Q. By whom?

A. Mr. Creighton.

Q. All checks cashed by Mr. Creighton in 1936 at the Mid-City was Mr. Johnson's income?

A. Those to which Mr. Lawrason testified.

Q. All that whole string of checks that Mr. Lawrason testified about yesterday that he saw through this machine that had A. J. Creighton on the back of them for 1936 you added into Mr. Johnson's income, is that right?

A. Yes, sir.

Q. All right, go on.

A. That is all for '36.

Q. That is, that is the total, is it?

A. Yes, for '36.

Q. How much does that add up to?

A. \$533,216.94.

64 Q. And you gave him credit, did you, for what he returned as income taxes?

A. Yes, sir.

Q. What part of the income tax return did you give him credit for?

A. The gross income from gambling, \$148,300, in that year.

Q. You calculated that all this other income that you have been talking about was income from gambling, did you, for Mr. Johnson?

A. Yes, sir.

Q. In making this calculation you assumed that Mr. Johnson owned all of the gambling houses that have been named in this testimony, did you?

A. Yes, sir.

Q. And that all checks that were cashed by any of the defendants were checks representing income of Mr. Johnson?

A. Yes, sir.

Q. And that all currency exchanged by any of the defendants represented income of Mr. Johnson?

A. Yes, sir.

Q. That is the way you arrived at that figure, is it?

A. Yes, sir.

65 Q. Now, for 1937, what did you add up to make Mr. Johnson's income?

A. The same kind of items, hundred dollar bills, Lawndale—

Q. All hundred dollar bills at the Lawndale Currency Exchange?

A. No; which were shown as having been delivered to, I think it is Mr. Flanagan, Lawndale—

Q. Lawndale.

A. That is Mr. Mickovsky.

Q. Yes. Well, that is—all right. Wait a minute, now, on that. What you are adding into Mr. Johnson's income there is all the hundred dollar bills that this head office sent over to the Lawrence Avenue Currency Exchange?

A. No, this is Lawndale Currency Exchange.

Q. Or, Lawndale Currency Exchange?

A. Yes.

Q. That is—what was the name of that head office?

Mr. MILLER. Roosevelt Agency.

THE WITNESS. Roosevelt Loan and something.

Mr. THOMPSON. All right.

66 Q. You are adding into Mr. Johnson's income for '37 all of the hundred dollar bills that the Roosevelt Agency sent over to the Lawndale Agency, is that right?

A. Well, I understood the bank delivered them to the Lawndale agency. Not direct. Not through the Roosevelt. If that is what you mean; yes, sir.

Q. So that all the hundred dollar bills that were mentioned in that testimony you are adding to Mr. Johnson's income for 1937?

A. Yes, sir.

Q. All right. Let's go on from there.

A. Currency deposited by the Albany Park Currency Exchange.

Q. All currency deposited by the Albany Park Currency Exchange?

A. With the exception of those which were deposited on such days as could have been pay days, according to Mr. Marcus' testimony, and I eliminated those.

Q. Well, all right. How much did you charge him up for that?

A. For 1937 it was \$87,100.

Q. All right. What else?

A. Northern Trust Company, exchange of currency.

67 Q. All currency testified to here that was exchanged at the Northern Trust Company, is that right?

A. Yes, sir.

Q. Now, did you take the estimate of the gentleman who testified here as the amount that was exchanged there?

A. Yes, sir.

Q. What estimate did you take, 100,000 a year?

A. Yes, sir.

Q. You didn't pay any attention to the cross-examination where he said that it might have been 90,000 or 80,000, some other figure.

A. No, sir.

Q. All right, go ahead from there.

A. Checks cashed at the Albany Park Deposit and Exchange. Those were the gamblers' checks that were cashed there.

Q. That is, you mean by that all these J. D.'s and D. D.—

A. That is right.

Q. J. T.'s, and what have you?

A. That is right.

Q. How much did that amount to?

68 A. In that year it was \$623,690.

Q. You added all that in as what Mr. Johnson's income was that year, did you?

A. Yes, sir.

Q. All right, go on from there.

A. Checks cashed at the Mid-City by Mr. Creighton per Mr. Lawrason's testimony.

Q. That is, all of the checks that were found at the Mid-City which had the endorsement of Mr. Creighton you added that to Mr. Johnson's income?

A. Yes, sir.

Q. All right.

A. That is all for the year 1937.

Q. That makes a grand total of how much?

A. \$1,056,844.59.

Q. And you allowed him the credit, I suppose, for what he made gambling that year?

A. What he reported gambling.

Q. What he reported gambling.

A. Yes, sir.

Q. And you found that he still had a net income on which he hadn't reported of how much?

A. Of that nature, \$798,469.59.

69 Q. Did he have income of some other nature that he didn't report in that year?

A. Well, I didn't mean to infer that.

Q. You didn't mean that he skipped some more, did you?

A. No; I didn't mean that.

Q. So that in 1937 you added up all of the checks that were cashed by all of these defendants here as part of Mr. Johnson's income, is that right?

A. Whatever I have stated. I don't know whether I have got them all over there or not.

Q. Well, if you skipped any of them that was an oversight, wasn't it?

Mr. HURLEY. I object to that.

Mr. THOMPSON. Q. All of the cash exchanged by any of these defendants here, I will put it this time, was income of Mr. Johnson, is that right?

A. Yes, sir.

Q. And all of the hundred dollar bills that were delivered out of a bank down to the Lawndale Currency Exchange, you counted that in as Mr. Johnson's income?

A. Yes, sir.

70 Q. All right. Now, for 1938, what did you find that he made that year, what are the items composing the income as you calculated it?

A. Hundred dollar bills of the Lawndale, currency deposited, Albany Park, currency exchanged at the Northern Trust, checks cashed at the Albany Park, checks cashed at the Mid-City, checks deposited at the the North Shore, checks deposited at the Central National; those latter two by the Lawrence Avenue Currency Exchange.

71 Mr. THOMPSON. All right.

Q. Now, you charged all of the \$100 bills that were sent from the Federal Reserve bank here out to the Central—out to the Mid-City, and then by it sent over to the Lawrence Avenue, is that it?

A. The Mid-City had nothing to do with the Lawrence Avenue.

Mr. THOMPSON. Well, let's get it straightened out on these \$100 bills you charged to Mr. Johnson's income tax for 1938.

The WITNESS. The same as for '36 and '37, the Lawrence Avenue Currency Exchange. Mr. Flanagan, I think it was.

Mr. THOMPSON. Q. Where Mr. Flanagan cashed a few checks?

The WITNESS. A. This shows he got \$20,000 in \$100 bills alone.

Q. That shows he got \$20,000 in \$100 bills? You mean, your sheet of paper does?

A. It is the total of those which were taken from the exhibits.

Q. What you mean to say, Mr. Clifford, is that \$20,000
72 worth of \$100 bills were ordered out of the downtown banks by this Roosevelt Agency; is that right?

A. Well, there was a further statement that they got those for Mr. Flanagan. That is the basis of my figures.

Q. That is the basis of your figures, then; their statement was?

A. Yes, sir.

Mr. THOMPSON. All right.

Q. You are calculating all of those \$100 bills as being a part of Mr. Johnson's income for 1938; is that right?

A. Yes, sir.

Q. There was not anybody stated that he got the bills, was there?

A. No, not that I know of.

Mr. THOMPSON. All right.

Q. Now, what about the checks that you added to his income? Was that all of the checks cashed?

A. The Lawrence Avenue Currency Exchange.

Q. That is the Marcus exchange, isn't it?

A. Yes, sir.

Q. All checks cashed by J. D., M. O., and what have you, on them; is that right?

73 A. Yes, sir. Mid-City—that is Mr. Creighton.

Q. All of the checks cashed that bore the endorsement of A. J. Creighton were added to Mr. Johnson's income; is that right?

A. Yes, sir.

Mr. THOMPSON. All right.

The WITNESS. Gamblers' checks deposited at the North Shore and the Central National by the Lawrence Avenue.

Mr. THOMPSON. Q. How did you figure out that they were gamblers' checks deposited at the North Shore and the Central National?

The WITNESS. A. The total of the checks which cleared through Johnson's account on the Lawrence Avenue books, as per the testimony of Mr. Bagshaw.

Q. Through the Johnson account? Through the Johnson account?

A. Reserve for uncollected funds. That is Mr. Bagshaw's testimony.

Q. You are assuming that is Johnson's account?

A. Oh, no; he stated that.

Q. I know, but you are assuming——

A. \$1,100,000.

74 Q. You took that to be William R. Johnson, the defendant in this trial?

A. Yes.

Q. But Mr. Bagshaw didn't state that, did he?

A. No; I think not.

Q. He said it might be "Miss Johnson"?

A. No; I didn't understand him to say that. He might have. Mr. THOMPSON. All right.

The WITNESS. That \$1,100,000 was 74.87 percent of all checks that were deposited by the Lawrence Avenue Currency Exchange. I used that percentage in separating the gamblers' checks from the checks that were deposited at the two respective banks during both of those years. For '38 at the North Shore, they total \$66,305.29; at the Central National, the total is \$147,105.71, or a total of \$213,411.06. For '39, using that same——

Mr. THOMPSON. No, no. We are on '38. Let's get that all figured out.

The WITNESS. All right.

Mr. THOMPSON. Q. You took the total of this year, this
75 computation of yours of 74 point something, and calculated the amount that belonged to the gamblers; is that right?

A. Yes, sir.

Q. Then, anything that belonged to the gamblers, belonged to William R. Johnson; is that right?

A. Yes, sir.

Q. And then you put on this income tax?

A. It is included in my computation.

Q. Is that all of 1938?

A. Yes, sir.

Q. That makes a grand total of how much?

A. \$939,807.12.

Q. That includes all of the money that you think that all of these defendants either exchanged, or all of the money that was received in the cashing of checks by all of these defendants that operated these various gambling houses; is that right?

A. Whatever these records show; yes.

Q. Now then, 1939. What are the items that compose Mr. Johnson's income, according to your computation?

A. The checks cashed at the Washington Park Currency Exchange.

Q. Who ran that?

76 A. Mr. Snoddy.

Q. Who cashed the checks there?

A. Mr. Creighton.

Q. How much was that?

A. Well, he said "Forty to fifty thousand." I used forty. The currency exchange of the Northern Trust Company.

Q. The currency exchange of the Northern Trust Company?

A. Yes, sir.

Q. You used 100,000 for that figure, didn't you?

A. No; just forty.

Q. Just forty?

A. Yes, sir.

Q. Because that was only—

A. Because that is all Mr. Deming said.

Q. Four-tenths?

A. No; I took his figure.

Q. Forty thousand was the estimate?

A. Yes.

Q. You took the estimate?

A. Yes.

Mr. THOMPSON. All right.

77 The WITNESS. \$886,499.30, which is the balance of the \$1,100,000, which was not considered in 1938, of the gamblers' checks that went through Lawrence Avenue.

Q. That is, you took all of this reserve for—what is that account?

A. Reserve for uncollected funds.

Q. You took all of this reserve for uncollected funds which Mr. Bagshaw said was on the Lawrence Avenue books and you called that the William R. Johnson account, and you added that to his income for 1939, less what you had taken out for 1938; is that right?

A. Yes, sir.

Q. You called that part of William R. Johnson's income, did you?

A. Yes, sir.

Q. And what other items did you put in there?

A. That is all for 1939.

Q. What is the amount—what is the grand total?

A. \$966,499.30.

Q. Are there any other sources of information that you have used for the computation and calculations you have made,
78 other than the exhibits which were enumerated by Mr. Hurley in his questions to you?

A. Exhibits and the testimony in the event there were no exhibits.

Q. You just used the other evidence, did you?

A. Yes, sir.

Q. Do you know what parts of the rest of the evidence you used, other than those exhibits he enumerated?

The WITNESS. In connection with which statement: expenditures statement or tax computation? I can give you both if you want them.

Mr. THOMPSON. I would not have asked for them if I didn't want them.

The WITNESS. I beg pardon.

Mr. THOMPSON. Q. All expenditures?

The COURT. Take a short recess, ladies and gentlemen.

(A short recess was thereupon taken, after which the following proceedings were had.)

The COURT. Proceed.

Mr. THOMPSON. Q. Do you have the last question, Mr. Clifford?

79 The WITNESS. No; I do not.

Mr. THOMPSON. Read the last question or two, Mr. Reporter.

(Record read by the reporter.)

Mr. THOMPSON. All right.

Q. What evidence, other than the exhibits enumerated, did you use to make your calculations as to the expenditures for 1936?

A. None—Mr. Goldstein's testimony on the Dells.

Q. The testimony of William Goldstein?

A. Yes, sir.

Q. Is that all, other than the exhibits?

A. Yes.

Mr. THOMPSON. All right.

Q. What items of evidence or testimony did you use for expenditures for 1937, other than the exhibits enumerated?

A. Mr. Goldstein on the second part of the Dells; Mr. Goldstein on the bank building; Mr. Goldstein on the land at 9730 South Western; Mr. Nadermy on the building at 9730 Western; Mr. Goldstein on the DePage farm, the one adjoining Sunny Acres.

80 Q. Anything else for 1937? You used Goldstein on the Bon Air, didn't you?

A. That was '38.

Q. Didn't you put down anything for '37?

A. Not according to the dope I got.

Q. Goldstein on the Dells for '37—

The WITNESS. I mentioned that.

Mr. THOMPSON. All right.

Q. Then, excepting as to the one statement of Nadherny about the building at 9730 Western, all of the rest is Goldstein plus the exhibits; is that right?

A. Yes, sir.

Mr. THOMPSON. All right.

Q. Now, then, for 1938, what did you use in addition to the exhibits?

A. The statement of Mr. Johnson about the loans from Skidmore—

Mr. THOMPSON. Let's get what is in evidence.

Q. You used your own account of your interview with Mr. Johnson; is that right?

A. This statement is in evidence.

Q. Oh, you mean—

A. The statement of March 27th.

Q. That written statement read into evidence?

81 A. That is right.

Mr. THOMPSON. All right.

The WITNESS. And Mr. Goldstein on Bon Air.

Mr. THOMPSON. All right.

Q. Besides that written statement read into evidence, and your testimony of Mr. Johnson's statement to you, and Goldstein. That is all, isn't it, besides the exhibits?

A. My testimony on the farm capital expenditures. That applies to '37, also.

82 Q. All right now, '38 we are talking about now.

A. Yes. I overlooked it in '37.

Q. Now, '39, what evidence or testimony did you use in addition to the exhibits enumerated by Mr. Hurley in his question?

A. The testimony of Mr. Goldstein on the Curran farm, and on the Columbian Gardens. I think the rest of them are covered by exhibits.

Q. Just Goldstein and the exhibits, plus your testimony, and what Mr. Johnson told you in an interview?

A. I don't think that applies to '39.

Q. You don't think that applies to '39?

A. No.

Q. Just Goldstein and the exhibits then, in '39?

A. Yes.

Q. Now, as to the income for 1936, what if anything did you use to make your calculations other than the exhibits enumerated by Mr. Hurley?

A. The testimony of Mr. Denning.

Q. Mr. Denning?

A. The Northern Trust Company man.

Q. Oh, yes. The currency exchange?

A. Yes.

83 Q. Anything else?

A. Mr. Lawrason's testimony, and that is evidenced by the record also.

Q. That is for 1936. All right, anything else?

A. Everything else is per exhibit.

Q. Now, what did you use as the testimony to connect the currency exchanged at the Northern Trust Company with the Defendant William R. Johnson?

A. I do not know of any specific—specific testimony of any one person. It is just the general testimony as to the ownership.

Q. Oh, you determined that Mr. Johnson was the owner of whatever produced this cash, is that right?

A. This computation is based upon that fact.

Q. Upon that assumption?

A. On that assumption.

Q. What testimony in this record did you use in your calculations to determine that the checks cashed by Mr. A. J. Creighton were part of the income of William R. Johnson in 1936?

A. I could give you the same answer for that also that that is general testimony.

84 Q. You assumed that all checks cashed by A. J. Creighton in 1936 were income of William R. Johnson, is that right?

A. That is right.

Q. And you made that assumption from the general testimony in this record?

(No audible answer.)

Q. Can you point to any particular item or testimony that you used as the basis for that assumption?

A. No; I can't right now.

Q. Now, what evidence did you use in the evidence as the basis for your calculation that the checks cashed in 1936 at the Northern Trust Company by Mr. Jack Sommers were part of the income of Mr. William R. Johnson?

A. I think I could give you the same answer to that one also.

Q. Can you point to any particular bit of testimony in this record which you used as the basis for that assumption?

A. No particular bit; no, sir.

Q. What was the basis for your assumption that the checks cashed at the Albany Park Currency Exchange in 1936 were part of the income of William R. Johnson?

85 A. I would give you the same answer.

Q. The same answer?

A. Yes.

Q. And if I asked you with respect to each of the items that you used in calculating the income of William R. Johnson for the year 1937, 1938, and 1939, respectively, you would give me the same answer in substance, would you?

A. With the exception of '39, the testimony of the two people at the Lawrence Avenue Currency Exchange, Mrs. Koop, and the janitor who saw Mr. Johnson in there dealing with Mr. Brown. Otherwise it would be just the same.

Q. You then assumed in making your calculations for 1939 that two witnesses have testified that Mr. Johnson dealt with Mr. Brown in 1939 have you?

A. That would be one specific instance I could recall in that testimony.

Q. You are assuming those two witnesses testified that Mr. Johnson had dealings with the Lawrence Avenue Currency Exchange, are you?

A. Yes, sir.

86 Q. Do you know what particular dealings you are considering in the basis of your assumption with respect to transactions with the Lawrence Avenue Currency Exchange that Mr. Johnson had dealings with him?

A. I do not know the nature of the dealings from the testimony.

Q. All right, your assumption then of all these facts with respect to these various items which you have added together to make up Mr. Johnson's income taxes, or income for these four years, are as you have stated them, are they, the general record without any ability to state any specific thing, excepting this one thing you have last stated, is that right?

A. I don't recall any right now.

Q. Can you tell me on what basis you assumed that the cash, checks cashed and the currency received by John Flanagan at the Lawndale Currency Exchange was the property and income of William R. Johnson?

A. Just general ownership of all the places.

Q. Just general ownership of all the places?

A. Yes, uh-huh; yes, sir.

Q. Just what places did you assume that Mr. Johnson owned in making your calculations?

87 A. Quite a number in the testimony. I don't just recall all the names.

Q. Did you assume he owned the Southland Club?

A. Yes, sir.

Q. Did you assume that he owned the one at 119th and Vincennes?

A. Yes, sir.

Q. You assumed that he owned the Select Club?

A. Yes, sir.

Q. And the Harlem Club?

A. The Harlem Stables, yes.

Q. What about the Harlem Club, did you assume he owned that one?

A. I don't know about that one.

Q. What?

A. I don't know about that one. I only know the Harlem Stables.

Q. You did not take any consideration of the Harlem Club?

A. No. I don't remember of ever having heard of that.

Q. Have you read the indictment in this case?

A. I have. I have forgotten that part of it.

Q. You do not know about this Harlem Club that
88 was out in Maywood, there?

A. I do not know that.

Q. The 4020 Club, you included that, did you, as one owned by Mr. Johnson?

A. Yes, sir.

Q. And the bookie up on School Street, did you include that as the property of Mr. Johnson?

A. I did not recall that one.

Q. The Mayfair Club?

A. I do not recall that one.

Q. The Northland Club?

A. The Northland.

Q. You included that, did you?

A. Yes, sir. That is if there was any money came from that in these figures I would have included it. I have nothing to show that any money came from that Northland.

Q. Who ran the Northland Club?

A. I don't know.

Q. Did it ever run?

A. I don't know. There was some party here testified about doing some work up there. That is all I know about the Northland.

Q. Some carpenters worked up there?

89 A. That is all I heard about it.

Q. That is all you know about it?

A. Yes, sir.

Q. What about the Provise Club? Did you include that as one owned by Mr. Johnson?

A. I do not know anything about that either.

Q. What about the Lincoln Tavern, did you include that in Mr. Johnson's property?

A. During the year of operation, whatever year it was.

Q. What?

A. If they operated in '36, I do not know when it operated.

Q. I mean in these four years we are talking about now?

A. If it operated; yes, sir.

Q. Well, did it operate in the four years?

A. I don't know, I don't know.

Q. You included the Harlem Stables, I think you said, as one of the properties owned by Mr. Johnson, is that right?

A. There was some checks, records at the Albany Park, showing that checks came from the Harlem Stables. Those checks would be included in r.y computation.

90 Q. As Mr. Johnson's income?

A. Yes.

Q. Did you assume in your calculations that Mr. Johnson owned the Club Moderne up here by Glencoe or Highland Park somewhere?

A. I do not know about that one.

Q. Sir?

A. I do not know about that one.

Q. Did you assume that Mr. Johnson was the sole owner of the Bon-Air Country Club in your calculations?

A. I took that from what he told me, not an assumption there.

Q. You did assume it in your calculations?

A. Yes.

Q. Based on your own recollection of what he told you?

A. That is right.

Q. Did you assume that Mr. Johnson owned the Service Bureau, or whatever you may call it, from which the service was sent out to bookies over this telephone system that was talked about here in evidence?

A. I am not familiar with that testimony.

91 Q. You did not assume that he owned that network of telephones then?

A. I did not have any assumption at all on that. I don't know.

Q. Can you point out one item of testimony on which you based your assumption that Mr. Johnson owned the 4020 Club?

A. I can't recall any now.

Q. Can you point to a single item of testimony on which you based your assumption that Mr. Johnson owned the Southland Club?

A. No, I can't think of one.

Q. All you would answer as to each of these clubs, if I asked you, would be that you just took the general testimony, is that right?

A. There was one lady said he had something to do with the Horse-Shoe, raising the limit out at the Horse-Shoe. I can't think of that one.

Q. And you took—

A. That would be one specific item I can now remember.

Q. You used that as a basis for your calculation that Mr. Johnson owned the Horse-Shoe Club, because this woman said she
92 talked to him about raising the limit, is that right?

A. I wouldn't say that I used that as the reason.

Q. Did you give any consideration of her statement about raising the limit?

A. No. I don't think that I did give any specific consideration to it.

Q. Can you name now one single item of testimony that was not included in these exhibits that were enumerated by Mr. Hurley in his question as the basis of your assumption that Mr. Johnson owned any of these gambling clubs?

A. Nothing specific, just general.

Q. Now, Mr. Clifford, assuming that Mr. Johnson did not own these gambling houses, he has returned all of the taxable income that he had for the year 1936, hasn't he?

A. No. You got your expenditure statement which showed he spent more than he reported.

Q. In 1936?

A. That is only one year out of the whole business.

Q. You do not lump people's income when you check their return for any particular year, do you?

93 A. I take into consideration, I try to take into consideration in making a net worth statement as many years as I can get.

Q. All right, let us go back, 1937, 1938, and 1939 had not happened when Mr. Johnson reported his income for 1936, had it?

A. No, sir.

Q. All right now, we are in 1936. You can go clear back to the beginning of time if you want to from there and then will you say that Mr. Johnson, according to your calculations had any taxable income for 1936 which he had not reported, if you eliminate the testimony that he owned these gambling houses?

A. Not for '36.

Q. Sir?

A. Not for '36.

Q. Now, for the year 1937, eliminating the assumption that he owned these gambling houses, have you, can you calculate that he had not reported all of the income that he had earned up to that time?

A. In that year?

Q. No; in 1937 did he report all of the income that he had
94 earned, assuming he did not own these gambling houses?

A. In that year he reported an income of two hundred and sixty four thousand, and he spent four hundred and sixty five.

Q. That is right. Assuming he did spend all of that.

A. That would assume he did not report the full income.

Q. All right, we will assume for my question now that he spent four hundred and sixty five thousand dollars in 1937.

A. Then the income he reported was not sufficient to take care of that income in that year.

Q. What about the excess income that he reported for 1936, '35, '34, '33, and '32, and the seventy-eight thousand dollars he had in his possession in '31?

A. For my figures, they do not include any personal expenses at all, he would have an excess.

Q. In other words, he would have more money accumulated by 1937 than he spent in 1937, wouldn't he?

A. Assuming that he had no personal expenses, no personal ex-
penditures. I do not have any for him; but if he had those,
95 then based on your assumption he could not have had an excess.

Q. Well, if he lived with his mother, it didn't cost him anything to live, he would get along all right, would he?

A. Yes.

Q. How much short would he be?

A. It depends on what his average per year was, if he had to pay for himself—

Q. Has he got anything left to live on after you take out the expenditures for 1937?

A. According to my figure he would have about five thousand dollars a year to live on.

Q. He would have about five thousand dollars a year to live on?

A. Over that period

Q. Yes. He would have to skimp to get by on that, you think?

A. I think he would.

Q. Even if he was living at home with his mother?

A. Yes.

Q. If the property he owned was paid for?

A. Yes.

Q. Now, 1938, assuming he did not own any gambling houses, how much short would he be?

96 A. Four hundred thousand.

Q. Four hundred thousand?

A. Dollars.

Q. That is if you take all of the reported income from 1931 down to 1938, at what you say he had in the books, seventy-eight thousand, then deducted expenditures that you have calculated up to and including 1938, he would be short four hundred thousand, would he?

A. Yes, sir.

97 Q. That is, without anything to do with these gambling houses?

A. That is right.

Q. And that, of course, is assuming that he bought the Albany Park bank building and paid for it, bought all of 97th and Western and paid for it, bought all of the Dells property and paid for it, bought all the Bon Air property and paid for it?

A. Yes, sir.

Q. And that all depends on Mr. Goldstein's testimony, doesn't it?

A. Not entirely. Mr. Johnson influenced me by his testimony to me.

Q. Well, you mean your recollection of what he told you?

A. My record of what he told me.

Q. Your recollection of what he told you?

A. My record of what he told me.

Q. Let me see your record of what he told you.

A. I don't think you can read that. That is it (handing).

Q. That is it, is it?

A. Yes, sir.

Q. What is this, Gregg or Pitman?

98 A. Gregg.

Q. Now, when did you make that shorthand notation in that little book?

A. My recollection is I made it the noon after I finished talking to Mr. Johnson.

Q. So that your recollection is that you recollected at noon after you talked to Mr. Johnson what he had said to you in the morning and you then put it down in this little book in shorthand, is that right?

A. Yes, sir.

Q. Then we come to 1939. How far did he get by that time, assuming he did not own any of these gambling houses, taking all the rest of your assumptions?

A. On the basis of the expenditures per this statement, he was \$78,000 in the red—shy, rather.

Q. \$78,000 shy?

A. He spent \$347,000 and reported only \$268,000.

Q. So he needed how much money to come out even by 1939?

A. Altogether \$475,000.

Q. And that is still assuming that he bought and paid for
99 all these properties that Goldstein testified about?

A. Yes, sir.

Q. How much was Mr. Johnson's excess income prior to the end of 1931 as shown by his income tax return from way back in 1921 or 1922?

A. As far as my information goes he had—didn't have an excess, he was in the hole.

Q. Well, you mean by that that according to this statement of Mr. Wilson, he had \$68,000—or, \$78,000 in the box; didn't say how much he had under the back stoop of the house, did he?

A. I don't know.

Q. Or buried out in the garden?

A. I don't know that.

Q. So you are assuming that he had come up to the beginning of 1931 dead broke, accumulated \$78,000 in 1931, and that is all he had?

A. No, he spent a lot of money, according to the records, during '31. I don't know whether he was broke at the beginning of '31 or not.

Q. What did he spend in '31 according to the records?

A. I don't remember. I wasn't familiar with all the details.

100 Q. Well, he bought the building out there at 4020 Ogden avenue, didn't he, paid \$8,750 for it, and assumed a mortgage of \$8,750, that is \$17,500, isn't it?

A. I don't know about '31.

Q. That is "the" lot of money he spent in '31?

A. I don't know the details.

Q. A couple of years prior to that, in 1929, he bought another old shack down on Pulaski or Crawford, didn't he, and paid something like \$20,000 for it?

A. I don't know.

Q. Well, isn't that what you are talking about when you talk about his big expenditures prior to '31?

A. I don't know the nature of the expenditures during '31, but he spent a big pile of money in '31, according to the records.

Q. Whose records?

A. Internal Revenue Department. I don't know the nature of them.

Q. Well, no records produced here, is it?

A. I don't know.

101 Q. You are not taking that into consideration, anything that is not in evidence here, are you, Mr. Clifford?

A. Not in making this expenditure statement. I am just doing that in answering your question.

Q. Well, I know—

A. This is based only on testimony or evidence.

Q. And you have already testified to all of that?

A. Yes, sir.

Q. But I am getting into this business prior to 1931, now, to test this \$78,000 business you are talking about. Now, did you calculate his income from his returns on file for the ten years prior to 1932?

A. No, sir.

Mr. THOMPSON. All right. That is all. We move the Court to strike from the record the calculations of the witness on the ground there is no proper foundation laid for the calculations and that it appears now that the calculations were made by taking into consideration improper elements and by omitting from consideration elements which should have been considered; and that
102 the testimony of the witness is an invasion of the province of the jury in weighing the testimony of witnesses in this record, evidence in the record; and that there is no proof of any character justifying his assumption that many of the items he has testified to are the income of the defendant William R. Johnson.

THE COURT. The motion will be denied.

Re direct examination by Mr. HURLEY:

Q. Did you, from the calculations that have been inquired about here, Mr. Clifford, arrive at what the defendant William R. Johnson—what he had on January 1, 1940?

A. According to this statement he would have had nothing.

Mr. HURLEY. I offer in evidence at this time, if the Court please, Government's Exhibit X-252, for identification.

Mr. THOMPSON. We have no objection to that.

The COURT. What did he say?

Mr. HURLEY. "We have no objection to that."

The COURT. It may be received.

(Said exhibit, so offered and received in evidence, was thereupon marked "Government's Exhibit X-252," and is in words and figures as follows, to-wit:)

103 Mr. HURLEY. That is all.

(Witness excused.)

Mr. HURLEY. Your Honor, we have but one more short witness, and he is not here, and then we will close.

The COURT. You just have one witness?

Mr. HURLEY. One more. He is not available right now.

The COURT. When will he be available?

Mr. HURLEY. Tomorrow morning, first thing.

The COURT. If it is all right with them it is all right with me.

Mr. HURLEY. They have no objection.

The COURT. We will recess at this time, ladies and gentlemen, until 10:00 o'clock tomorrow morning.

Mr. THOMPSON. If the Court please, obviously, at the conclusion of the Government's case, which I understand is to be the first thing in the morning, we shall move for certain relief, and I propose to argue to the Court law based on the authorities in this memorandum, which I thought the Court might like to have over night, and expedite matters, copy of which we have delivered to the Government counsel. (Handing paper to the Court.)

104 (Whereupon an adjournment was taken until 10:00 o'clock A. M., Wednesday, September 25, 1940.)

105 UNITED STATES OF AMERICA

vs.

WILLIAM R. JOHNSON ET AL.

Before Judge BARNES and JURY

Wednesday, September 25, 1940,

10:00 o'clock A. M.

Court met pursuant to adjournment.

Present:

Mr. William J. Campbell,

Mr. E. Riley Campbell,

Mr. Hurley,

Mr. Plunkett,

Mr. Miller,

Mr. Thompson,

Mr. Hess,

Mr. Callaghan.

The COURT. Proceed, gentlemen.

Mr. THOMPSON. If the Court please in checking the record, I find I should like to ask Mr. Clifford a few more questions to get some figures we didn't get as a basis of his calculations.

The COURT. Very well.

106 FRANK J. CLIFFORD, called as a witness on behalf of the Government, having been previously duly sworn, was examined and testified further as follows:

Cross-examination (continued) by Mr. THOMPSON:

Q. Mr. Clifford, will you please give us, in order, the amount of the net cash income of Mr. Johnson, based on his income tax returns for each year, beginning with 1932?

Mr. HURLEY. If the Court please, that is in the record.

The COURT. "32," he said.

Mr. THOMPSON. I said "beginning with 1932". What do you mean, it is in the record?

Mr. HURLEY. As I understand it, that was covered yesterday.

Mr. THOMPSON. No. That is just the reason I wanted his figures. They do not gibe with ours. Therefore, I want to see where the error is.

The COURT. He testified to it yesterday?

Mr. THOMPSON. He testified as to parts of the year, then he gave a total, which was not the same. I think it was an error.

107 I do not think there is anything wrong with it. That is the reason I want to get it straight. It may be our error.

The COURT. Well, go ahead. Overruled.

The WITNESS. A. For the year 1932, the first figure is \$70,677.54.

Mr. THOMPSON. Q. That is the net cash income of Mr. Johnson for the year 1932, as reported by him, isn't it?

A. I would add to that, the depreciation which I allowed.

Mr. THOMPSON. Yes. That is right.

Q. The net cash income available for expenditures?

A. That is right; \$1,817.41. That is added to the \$70,000 figure.

Mr. THOMPSON. All right. Thank you.

The WITNESS. And in that year he realized from the sale of an investment which is not included in the other figure, the amount of \$289.45, and there was an error on the return, which reduced this figure, \$1,415.56, which brought the net to \$72,368.84.

Mr. THOMPSON. All right.

Q. Now, then, the 1933 figure.

The WITNESS. A. 1933, the amount of net shown on the
108 return was \$74,667.81. Adding the depreciation of \$1,817.41, and an error of \$2,097.13, brings the total—I will have to subtract it, because I have carried it forward. That brings it to about \$78,572.35. 1934, the figure reported was \$116,214.53. Adding the depreciation of \$9,007.35, plus an adjustment of \$16,129.36, makes a total of \$141,451.24. 1935, the amount was \$57,878.85, plus the depreciation of \$9,942.68, plus a small adjustment of \$605.39, making a total of \$66,426.95. I am adding these backwards as I go, so I may make an error. 1936, \$161,892.74, plus \$10,410.77 depreciation adjustment, plus a small mechanical adjustment of \$1,132.70, making a total of \$173,436.21.

Mr. THOMPSON. All right.

The WITNESS. '37, it is \$248,660.15 for the return, adding the depreciation of \$15,354.95, makes \$264,015.13. 1938, \$101,946.68, plus depreciation adjustment of \$19,028.47, making a total of \$121,075.15. 1939, \$251,715.47, plus \$17,170.51, makes a total of \$268,885.98.

109 Mr. THOMPSON. Q. Now, Mr. Clifford, in making those computations, did you allow any depreciation for the building at 9730 South Western Avenue?

A. I don't know whether that was in the return or not; it was not in the '37.

Q. It was not in the return, and you have assumed that he was the owner, and you did not make—

A. It is not in these computations.

Q. No; it is not in those computations, I understand, but in your computation as to Mr. Johnson's taxable income, based on the assumptions from your conception of the evidence in the record, you did not make any allowance to him for depreciation on 9730 South Western avenue, did you?

A. No; I gave him that which was on the return, plus a small adjustment.

Mr. THOMPSON. Yes, sir.

Q. And the adjustment you have been testifying to is what the returns actually show, of course?

A. Yes, sir.

Q. What I am getting at on this second question is making the assumptions that you did in connection with your answers to what

Mr. Johnson's return should have been for the various
110 years. In making that assumption, did you deduct any depreciation which would, on your theory, have been allowable to Mr. Johnson on 9730 South Western avenue?

A. No, sir.

Q. And did you make any deduction for depreciation which might have been allowable to Mr. Johnson on the theory that he owned the Dells property, in calculating his income on the assumptions you made?

A. No, sir.

Q. You didn't allow any deductions as to the Bon Air property, did you, in those calculations?

A. No, sir.

Q. Nor did you allow any payment of taxes for either of these three properties that I have mentioned?

A. I had no taxes or any books on those.

Q. So you made no allowance for taxes paid. Assuming he owned these properties, he would have been allowed a deduction for whatever taxes he paid on them, would he not?

A. Yes, sir.

Q. You made no such allowance or estimate of allowance?

111 A. Not in this computation.

Mr. THOMPSON. All right.

Q. I think, Mr. Clifford, I asked you the details of expenditures for 1936, but I seem to have omitted asking you for 1937. What

are the details of your expenditures, mentioning the items and the same in gross?

A. Income tax, \$78,550.70.—

Mr. THOMPSON. All right.

A. (Continuing.) Lincoln Park building improvements, \$16,274; Albany Park Furnishings, \$102.75; the Dells purchase, \$9,000; Albany Park bank building, \$59,887.95; 9730 South Western avenue, land, \$13,115; building, 9730 South Western avenue, \$22,400; Sunny Acres farm, \$145,000; Sunny Acres farm capital items, \$102,223; personal items incurred at the farm, \$3,238.14; that DuPage County real estate, \$16,050.

Mr. THOMPSON. All right.

Q. Now, what are the totals for 1937?

A. \$465,840.64.

Q. Now, for 1938, the same, please.

A. Tax, \$128,399.72. Lincoln Park building improvements, \$3,680.09; furnishings, Lincoln Park building, \$106.09; farm capital items, \$12,375.27; personal items, \$3,002.49; Bon Air land purchase, \$95,056.73; the advances to the Bon Air Catering Company, \$273,540.93; loan, William R. Skidmore, \$37,000. The total was \$553,561.32.

Q. Now, will you please break down the land purchased for Bon Air? What were those items there, please?

A. The original purchase \$75,000; exhibit E-32, called the Flynn property, \$7,600; Exhibit 33, the Toche property, \$8,456.73; Exhibit 34, called the gas station, \$4,000.

Mr. THOMPSON. All right.

Q. 1939, please.

A. Tax, \$34,530.94. Lincoln Park building improvements, \$266.08; furnishings, \$2,090.19; farm capital items, \$1,087.04; the Bon Air advances, cost of improvements, \$228,195.07; the Curran farm, \$63,800; and the advances in connection with Columbian Gardens real estate, \$17,500. The total is \$347,469.32.

113 Q. This Columbian Gardens, just how is that breakdown; what are the items that comprise the \$17,500?

A. \$10,000 in escrow with Chicago Title; \$7,500 in the Evanston bank.

Q. Those are two separate transactions, then, are they?

A. I don't know whether they are both on the same one, or on two different ones, but they are two different deposits.

Q. Seventy-five hundred deposited on a contract of purchase from the Evanston bank, and the \$10,000 deposited on a similar contract in escrow at the Chicago Title & Trust Company; is that what you have?

A. Yes.

Mr. THOMPSON. All right. Just one question on this \$45,000 second mortgage on the Division and Dearborn property, otherwise called the Lincoln Park building.

Q. I think you said you charged Mr. Johnson with an expenditure in the aggregate of \$45,000 on that transaction?

A. Yes, sir.

114 Q. What credit, if any, did you give Mr. Johnson in relation to that expenditure on that second mortgage for this payment to him? Apparently it is a debit on Government's Exhibit E-9 of \$2,250.

A. I didn't give him any credit for that.

Q. Didn't you understand that to be some payment by him on this indebtedness of \$45,000, which reduced the amount of the notes that Mr. Johnson held at that time, \$10,000 of notes he then held, by \$2,250?

A. If that is what it was, it would tend to reduce that, yes.

Q. At least, you did not take that into consideration?

A. No, sir.

Q. Now, Mr. Clifford, you assume in your computation of the proper taxable income of Mr. Johnson, his ownership of all these gambling houses. Did you give him credit for the \$7,200 of rent that he received on 402½ Ogden and 3121 Crawford, which are returned on his income tax returns?

A. I didn't take that out. The depreciation is taken out and he is given credit for that.

Q. The depreciation is taken out?

115 A. Yes. Not the other.

Q. So that if Mr. Johnson was the owner of that gambling house, and paid himself \$7,200 rent, it would be properly taken out?

A. That adjustment would be proper.

Q. And the same thing is true of Division and Dearborn. If he was the owner of that gambling house and paid himself rent on that gambling house, that would be properly deductible?

A. The same adjustment, yes.

Q. You didn't make any, though?

A. No.

Q. In a like situation, if he actually owned gambling houses and real estate which he does not, in fact, own, according to his returns, then it would not be taxable on the so-called rent that he received?

A. That is right.

116 Q. Now, when you were speaking of the gross income of Mr. Johnson under your assumed basis of calculation, what do you understand the gross income to be?

A. Well, in this case the gross income would be before deduction of any operating expenses; but the figure that I have is supposedly after the deduction for such operating expenses.

Q. Well, you are using, I suppose, as the basis of your definition of gross income Section 22. I believe it is, of the Internal Revenue Code?

A. I do not recall the section. It is defined there.

Q. Well, how do you reconcile the inclusion in that matter of gross income under that definition of the statute this mere exchange of currency down at the Northern Trust Company, for instance, where five thousand dollars of currency is brought in and exchanged for another five thousand of currency?

A. Well, the testimony was in the majority of the exchanges in the cashing of checks—

Q. No, I am not talking about cashing of checks.

A. Well, the exchanging of money that large bills were paid on.

117 Q. Yes?

A. They were also some small ones, but the testimony is that these wages, which is the big operating expense, were paid the night before.

Q. Yes?

A. And this was in excess, which could have been used for any purpose other than that, personal or otherwise.

Q. I say, that is the deduction that you made from the testimony in the record, in arriving at your basis for including that exchange of currency as income?

A. The deduction I took, there was no evidence to show it was used in connection with any gambling expense at that time.

Q. Well, the fact he brought in five twenty-dollar bills and got back one one-hundred bill, would not change the amount of money he had when he came into the bank, would it?

(No audible answer.)

Q. He had the same amount of money when he went out of the bank as he had when he went into the bank?

A. Yes, sir.

118 Q. Just a few more items. What did you find to be the expenditures as shown by your computations of Mr. Johnson for the year 1935?

A. Income taxes, \$41,373.56; payment of the first mortgage, \$75,000.00; improvements to Lincoln Park, \$2,059.91; furnishings, \$3,453.81; Thorndale and Glenwood, \$326.00.

Q. Making a total?

A. \$122,213.28.

Q. And for '34, please?

A. Taxes of \$27,993.00; Lincoln Park Building equity purchase, \$16,000.00; payment of the first mortgage, \$25,000.00; the delinquent taxes capitalized, \$16,205.48; improvements, \$6,030.05; furnishings, \$3,076.40; Thorndale and Glenwood furnishings, \$730.22, making a total of \$94,035.15.

Q. '33?

A. In '33 is the taxes paid, of \$8,610.10; and the balance of the purchase of the second mortgage, \$38,000.00; making a total of \$46,610.10.

Q. '32?

A. Just the taxes paid, \$8,841.11; and the second mortgage, original purchase of \$7,000.00; making a total of \$15,841.11.

119 Q. You have no expenditures prior to that, do you, in your computations?

A. No, sir.

Q. What was the base you started with now for 1932, January 1st?

A. \$68,000.00.

Q. That is what I thought you said. Is that what you used as the testimony of Mr. Wilson, as the base to start with, \$68,000.00?

Yes, sir.

Mr. THOMPSON. Very well. That is all, Mr. Clifford.

(Witness excused.)

JOHN P. BARNES. *Judge.*

120

121 Clerk's Certificate to foregoing transcript omitted in printing.

